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AQUA ILLINOIS, INC.

2005 NOV 10 11:10

PROPOSED GENERAL INCREASE
IN WATER RATES FOR THE
OAK RUN DIVISION

DOCKET NO. 05-0072
CHIEF CLERK'S OFFICE

MOTION TO HOLD ORAL ARGUMENT
MOTION FOR ADDITIONAL HEARING
MOTION TO ADMIT POST-RECORD DATA

Now comes Monica J. Sadler ("Sadler") pursuant to Part 200, Administrative Code, Section 200.850, Section 200.870, and Section 200.875 of the Rules, and respectfully submits these Motions to the Illinois Commerce Commission, in the above referenced Docket, and states as follows:

1.) That the Mission Statement of the Illinois Commerce Commission includes language which states that The Commission will "protect consumer interests," and promote the sharing of impartial and comprehensive information within its jurisdictions, as provided by law.

Under the above premise, there would be an automatic assumption that the Illinois Commerce Commission has "shared" all such comprehensive information, as relates specifically to Docket 05-0072. This would necessarily include all information the Staff has allegedly relied upon, or used in any way to determine the "final rate levels or rate structures in the case." (See Section 200.875 Post-Record Data at subparagraph a.) **This assumption is incorrect, as the record in this case does not include any data reflecting how the "internal policies" of the I.C.C. will affect the proposed rates of Oak Run "availability" customers.**

It appears that the Staff intends to ignore the fact that there is no evidence to support the increase in "water availability fees" in the instant case. Further, there is no evidence, or law, to support the premise that the Illinois Commerce Commission has any standing to "rewrite" and/or amend the contractual provisions contained within the chain of title for any Oak Run property owners, including but, not limited to Sadler, and the 1956 "water availability" customers.

Under Section 200.875, at subparagraph c, nothing can be construed to limit the discretion of the Hearing Examiner, or Commission, for good cause shown, to consider late-filed exhibits for admission into evidence. Although not apparent from the record itself, this must be exactly what the ALJ did, when Aqua's late filed Exhibits were admitted, after not having met the September 23, 2005 deadline, which had been set by the Administrative Law Judge.

In light of the above Rules, this same sort of professional courtesy should extend to all parties, under the circumstances which are known to exist in this case. Therefore, it is respectfully suggested that pursuant to Section 200.875, at subparagraph b, that the Commissioners require Rate Analyst, Cheri Harden, to supplement this record, in order to "share" "all impartial and comprehensive information" as well as the source of this pertinent information, as it relates specifically to Ms. Harden's May 5, 2005, direct testimony, concerning "water availability fees" for the 1956 Oak Run property owners.

This record indicates that Ms. Harden did not believe that any "cost of service study," needed to be conducted, and that she agreed with Aqua that "a traditional cost of service study would not be of benefit." Unfortunately, Ms. Harden, has failed to place any impartial or comprehensive information, into this record, to support her position, when stating:

"I determined that a cost of service study was not necessary and that an across the board increase to meet the revenue requirement is sufficient to determine cost responsibility for each customer class." (Emphasis Added)

Likewise, and for unknown reasons, Ms. Harden has failed to "study," let alone provide any comprehensive information (or evidence) for this record, that the "water availability" customer class, within each of the eight subdivisions at Oak Run, are in any way "responsible" for any fees, rates and charges, above those which are allegedly contained within each owners' governing documents (ie. chain of title).

This requires immediate corrective action by The Commission, under the circumstances, as Aqua has not and cannot ever meet its burden to prove this alleged "cost responsibility," and it has become acutely apparent that Staff has been aware of Aqua's problems in this regard for quite some time.

The ICC is not free to give Aqua "carte blanche" in the present case, under the circumstances, and obviously the I.C.C. has no standing whatsoever to effect invalid amendments to any Oak Run property owners' governing documents, contained within their chain of title. Any attempt to do so must therefore be challenged.

Ironically, the Third District Appellate Court has already addressed similar conduct with respect to such invalid amendments (which were also made during the "developer control" period). Following the rationale previously applied by the Third District Appellate Court, the fact that "water availability customers" have been unaware of the illegality of the charges by Consumer IL. (now known as Aqua IL.) and the customer's **lack of prior objection, does not render the charges valid, as held in O'Connell v. Chicago Park District, 376 Ill. 550, 34 N.E. 2d 836.** Sadler urges Counsel for The Illinois Commerce Commission (and the Illinois Attorney General) to review pages 7-8 of the Modified Order of The Third District Appellate Court, dated December 22, 2000, attached hereto as **EXHIBIT A** and by reference made a part hereof.

Under these circumstances, it appears that all "water availability fees," which have been improperly collected by Aqua Illinois (formerly known as Consumer IL.) within the last ten years, remain actionable under the law in Illinois, as well as Federal Law. For those Staff members who prefer to review a synopsis of the Third District Appellate Court Opinion (in the Oak Run Case) please find attached hereto **EXHIBIT A-1**, authored by the nation's leading expert authority in community association law, Wayne Hyatt, Atlanta, Ga.

I.C.C. Rate Analyst, Cheri Harden's position, in essence, would allow Aqua to continue to collect "water availability fees", under the false pretenses that there is a contractual "responsibility" for owners to actually pay them when invoices are received, for the amounts above those expressly stated in their governing documents. This is a direct result of I.C.C. interference. (NOTE: Owner sales contracts are referenced in the tariff sheets currently filed by Aqua IL, without detail for obvious reasons.) Commission Staff appears to have been fully aware of this negligent misrepresentation which constitutes fraud.

It is obvious that pursuant to Section 200.220, a verified request for Declaratory Rulings will become necessary, in order to determine, among other issues, whether Ms. Harden's definition of "water availability fees" is accurate, and whether this information was obtained from the express language of the governing documents for each subdivision within Oak Run, which are part and parcel of each owners' contract.

It will also be necessary to determine how the I.C.C. Staff's "internal policies," which Ms. Harden makes reference to in her direct testimony, dated May 5, 2005, has affected this case from its "planning stages" (in 2003) to the present date. (See Q & A below.)

Q. Has the Company proposed changing the Availability Charge?

A. Yes. The Company proposes changing the Availability Charge from \$6.90 to \$12.55 per month which is an increase of 81.9%

Q. Do you agree with the Company's recommended Availability Charge?

A. No. At the present time Staff is NOT recommending Availability Charges be set for water companies. In keeping with this internal policy I would prefer to maintain the current Availability Charge; HOWEVER, I HAVE RECOMMENDED AN INCREASE TO THE AVAILABILITY CHARGE ...
(Emphasis added)

The nearly 2,000 "Water Availability customers," (who reside in approximately 30 states throughout the nation) should have access to all information related to any of the I.C.C.'s "internal policies" affecting rates -- (WHICH APPEAR TO FAVOR THE UTILITY'S POSITION). Each ORPOA member has an express right, under their Declarations, to Declaratory Rulings, with respect to the I.C.C.'s interference with enforcement of the provisions of their governing documents.

Further discovery will be necessary to determine how many of the 1956 "Water Availability Customers" are even aware of the fraud which is currently being perpetrated, let alone the I.C.C. Staff's "internal policies," or the probable reasons for the failure of Michael Davison (ORPOA Manager), and Attorney Richard C. Balough (Counsel for the ORPOA Inc.) to submit all of this relevant information and evidence affecting rates on behalf of both classes of membership/customers.

The Oak Run Membership had been publicly assured, on multiple occasions, by its own Board President, (Sid Cisco), that all of this relevant information and evidence had, in fact, been forwarded to Oak Run Counsel, and to the Illinois Commerce Commission.

While there is no evidence in this record to support these claims by ORPOA, and Sadler's Motions have now therefore become necessary, **there is absolutely no excuse (or ethical reason) for Aqua's Counsel to object to, or whine about, the introduction of relevant information and data, at this juncture, as Aqua Counsel has also purposely omitted it from the record in Docket 05-0072.**

Under these circumstances, Counsel for Aqua IL. is urged to make an immediate review of all exhibits attached hereto, and to make the "reasonable inquiry" (required of all attorneys in the State of Illinois) into the factual circumstances which they knew, or should have known to exist, prior to the filing of this rate increase request affecting nearly two thousand "water availability" customers who reside across the entire country.

The Oak Run POA Inc. itself, has also promulgated and distributed information related to "water availability fees" which has apparently misled a majority of its membership for many years. In fact, the current **Oak Run Booklet**, expressly states that the **Restrictive Covenants (the I.C.C. Staff uses the phrase "covenants of ownership")** contains the following language (See Page 12 attached hereto as **EXHIBIT B** and by reference made a part hereof) with respect to water availability fees:

"Section 8. Central Illinois Utility Co. has constructed a water system to serve all lots in the properties. At or after such time as water service is made available to lots within the properties, Central Illinois Utility Co. will give written notice to all owners whom such service is available. **When water service is available in the main installed on or adjacent to a lot, whether or not a tap-on has been made, the owner SHALL pay an annual water availability fee of \$60 per lot. This fee may be billed on an annual, semi-annual, or quarterly basis at the discretion of Central Illinois Utility Co.**"

(For Ms. Harden and the entire I.C.C.'s Staff's benefit special emphasis has been added to this portion.)

(Section 8 - Continued)

"In addition, a hook-on fee of \$195.00 (or the actual cost thereof if greater) shall be charged for each connection made at the time of making such connection."

"Central Illinois Utility Co. reserves the right to sell the water system and all rights to water charges and hook-on fees to a private or public water company."

"**Following hook-up**, the rates for standard one family charges as determined by the United States Government; provided, however, that in the event Central Illinois Co. or its assignee of such water system shall apply for or otherwise be subject to regulation thereof by appropriate state authority, then the rates and conditions of service approved by such regulatory authority and all the rules and regulations thereof shall control."

(Emphasis Added)

Suffice it to say that Oak Run POA Inc. has not published the actual recorded language of the covenants, as Mr. Michael Davison's "disclaimer" within the Oak Run Booklet (attached hereto as **EXHIBIT B-1** and by reference made a part hereof) expressly states the following:

"The Restrictive Covenants contained in the back are generalized for all the subdivisions and some wording may vary. IF YOU WOULD LIKE TO REVIEW THE SPECIFIC COVENANTS FOR YOUR SUBDIVISION, THEY ARE AVAILABLE AT THE RECORDER'S OFFICE IN THE KNOX COUNTY COURTHOUSE."

(Emphasis Added)

The actual recorded language of Sadler's Declaration (Amendment) was attached to her Petition to Intervene as Exhibit C, and is attached hereto for Staff's convenience, as **EXHIBIT C**.

There appears to be an actual controversy, which affects the entire class of water availability customers, which can no longer be ignored. While the language of the recorded amendments and/or covenants related to these issues do vary, The Commission does not appear to have the authority to amend the restrictive covenants for any reason.

Of equal importance, the language of the Oak Run Booklet, with respect to "enforceability" of the above Section, states the following:

"Any owner of real property in said plat SHALL have the right to prosecute at ANY proceedings at law or in equity against ANY person or persons violating or attempting to violate ANY covenant contained herein, either to prevent him or them from doing so or TO RECOVER DAMAGES or other dues for such violations."

(Emphasis Added)

Aqua IL. (formerly Consumers IL.) had actual notice of all of the recorded Declarations for all subdivisions within the Oak Run Division, as is evident from their Warranty Deed, filed May 31, 1989. See EXHIBIT C-1 attached hereto and by reference made a part hereof. (Note documentary stamp in the amount of \$138.00)

Further discovery will be necessary to determine the amount of damages due the class of owners whose rights have been violated, and continue to be violated, by the conduct of Aqua Illinois, ORPOA Inc., various Counsel, and the Illinois Commerce Commission.

2.) That the Illinois Administrative Code (SUBCHAPTER a: Administrative Regulations) at Section 100.10 "Authority," adopts language designed to assure that the business of the Illinois Commerce Commission is conducted effectively and objectively and without the appearance of impropriety, by the employees of The Commission and all Commissioners.

3.) That the Maintenance of High Standards is addressed at SUBCHAPTER a: at Section 100.20. That conduct of employees of The Illinois Commerce Commission which affects "the interest of every citizen of the state" MUST be based on "informed judgment to avoid situations that might result in actual or apparent misconduct or conflicts of interest." A Commissioner or any employee is specifically directed under Section 100.20 (b) (6) to avoid any action that might result in adversely affecting the confidence of the public in the integrity of The Commission.

4.) That the failure of the Staff to address Sadler's concerns, has created an appearance of impropriety, as they relate to the request of Aqua Illinois, to impose any increases in water availability fees (over that which is subject to 220 ILCS 5/9-102.1) "Negotiated Rates" pursuant to the sales contracts do not allow any increase over a charge of \$60.00 annually for "water availability fees" pursuant to the governing documents, (and that \$60 annual fee applies only "if" documents were properly amended). See EXHIBIT C-2 through EXHIBIT C-9 attached hereto and by reference made a part hereof.

5.) That the Staff was made aware of the false pretenses, under which Aqua Illinois set forth its request for rate increases (specifically to its "water availability" customers and the Commissioners, as well as all employees involved in Case 05-0072, have failed to perform their duties effectively, and address the questions of fact and law, which have arisen as a result of Aqua's fraud upon the Commission and upon thousands of its customers.

6.) No wonder attorneys for Aqua Illinois, Sarah Galiato and John Rooney, have objected to the review of The Commission of the documents which will prove that Aqua, and their Counsel, have in fact, sought rate increases, based on false pretense.

Aqua's objections to review of public records which will prove this fraud is beyond incredulous, and should provide enough "good cause" for the Hearing Examiner and the Commissioners to require Aqua's Counsel to explain, on the record, why they protest the introduction of public records as evidence in this case.

7.) Sadler has previously offered to provide true and correct copies of these relevant documents for review by Commission Staff, and the Hearing Examiner, as proposed additional evidence, pursuant to Section 200.870 of the Rules. **Notably, no response to Sadler's offer has been received from the Illinois Commerce Commission in this regard.**

Sadler currently has no knowledge of why this relevant information has not previously been submitted by Counsel for Oak Run or Aqua IL. (other than the purposeful omission of the language related to owners' enforcement rights under the covenants and the ORPOA's duty to supervise charges thereunder).

As Staff has failed to respond to Sadler's offers to supplement this record in order that the Commissioners can make informed decisions as required (ie to deny the proposed increases as requested by Aqua, and as suggested by Staff) this creates an greater appearance of impropriety, and suggests Staff's desire to improperly suppress relevant evidence from Docket 05-0072.

8.) **That "silence when there is a duty to speak constitutes fraud."** There is no provision in the Administrative Code which allows such conduct. Contrary to the unethical protestations of Aqua's Counsel, Galiato and Rooney, there is never a wrong time for the Commissioners to do the right thing. In this case, doing so could surely avoid further legal actions against all those who have actively participated in concealing evidence, which should have been submitted into this record at the outset. Sadler, and the other two thousand availability customers should not be prejudiced by unethical misconduct by the attorneys involved, whether a result of incompetence, or blatant fraud.

9.) That the Chief Hearing Examiner has likewise provided no explanation whatsoever for its own failure to address the deficiencies in this record, which would allow it to also make informed decisions in accordance with Section 200.870 and Section 200.875.

10.) That 220 ILCS 5/9-102 provides that every public utility shall file with, and shall state separately all contracts that affect the rates charged in any manner.

11.) That Sadler requested that the Staff request evidence of a single contract that would allow Aqua to breach the contractual provisions contained within the Declarations, (and/or any of the alleged invalid amendments to those same Declarations) and the Staff has failed to do so. As Ms. Harden, and I.C.C. Staff Counsel knows, such evidence does not exist now (and in fact, did not exist in 1997).

12.) That in fact, the Staff, by review of public records, is aware that they have previously erroneously approved increases to water availability fees, as there are no contracts in existence which allow Aqua (or previously Consumer IL.) to increase the "water availability fees" above the expressly stated amount of \$60 annually. See EXHIBITS C-2 through C-9.

13.) That it also now appears purposeful, that the Administrative Law Judge marked this record "heard and taken," one day prior to granting Sadler's Petition to Intervene. The Notice of the Administrative Law Judge's Ruling granting Sadler's Petition for Leave to Intervene is dated October 4, 2005, and Sadler received a copy of the Proposed Order in the above matter, dated October 5, 2005, thereafter (due to a delay caused by E-Docket posting).

14.) That the relevant questions of fact and law, evaded previous review by the Commission, in the consolidated Docket No. 97-0351, and has been purposely omitted, in this record, by Aqua, and now Commission Staff, and has thus far, appears to have evaded review by the Commissioners this time around as well, even when 220 ILCS 5/9-101 expressly prohibits unlawful and unjust rates and charges. Again, an explanation of this conduct and lack of diligence, on the record, will serve the public interest, as well the interests of all those affected by, and damaged by the actions of the Commission in this case.

As set forth in paragraph 10 above, Section 9-102 requires that every public utility shall file with and as a part of such schedule, and shall state separately all rules, regulations, storage or other charges, privilege and contracts that in any manner affect the rates charged or to be charged for any service, Aqua has failed to do so, and the Commission Staff has neglected to address this deficiency. This is wholly unacceptable.

15.) That Sadler's argument above, has a basis in fact, because it does not appear that the parties (Aqua and/or ORPOA) had any intent to ever make any of the "covenants of ownership" a part of the record in this case, and thus far have failed to do provide the Commission with this relevant information, expressly and unambiguously related to "water availability fees," for the obvious reasons.

This material omission of fact, by Aqua, is improper, deceptive, and unethical, and should continue to be tolerated, let alone rewarded, by the Hearing Examiner, the Staff, or The Commission, for any reason.

16.) That Aqua is not entitled to earn substantial profits (ie. the Oak Run system) by purposely breaching its contracts with approximately 2,000 water availability customers. Doing so, can and will give rise to class action claims against all those who have participated in such fraud, and disciplinary complaints are being drafted for filing against all those attorneys who have knowingly and willingly participated in this unlawful conduct, as 220 ILCS 5/9-101 prohibits such conduct by the parties, and employees of the Illinois Commerce Commission. Consumer protections should have prevented this conduct.

17.) That Sadler has no knowledge why the ORPOA failed to raise this material issue, in light of the express "purposes" of the Association (ie. "to supervise charges" and "to administer and enforce the covenants and restrictions contained within the Declarations of Restrictive Covenants"). Further discovery will be required to determine if the I.C.C.'s "internal policies" in any way affected the performance of duties of ORPOA Staff.

18.) That Sadler will not waive the right to question the validity of any amendments or changes to the provisions of the Forest Ridge Declaration, and will not waive the right of enforceability for all violations of any provisions therein.

The Docket in this case indicates that Sadler attempted to intervene in this case, as soon as possible, after her meeting with I.C.C. Staff member, Bill Johnson, and the suggestion was made. Sadler had also filed a complaint with the I.C.C., prior to the filing and the ruling on her Petition to Intervene, which has not yet been investigated by the Commission.

19.) That Sadler's own contracts should be reviewed by this Commission, and the Hearing Officer, prior to a decision, and said review should require an additional hearing and oral argument, on good cause shown by Sadler, in order to allow all relevant evidence to be introduced, which should allow the Commission to make informed decisions on the Order, as their duty, as well as the public interest, so requires.

Disclosure of Aqua's fraud upon the membership of the Oak Run Property Owners Association was made by Sadler, on October 29, 2005, at the Annual ORPOA Meeting. This disclosure raised serious concern among those in attendance and should lead to the filing of additional formal complaints against Aqua Illinois. (Unfortunately, Attorney Richard C. Balough failed to appear at the Annual Meeting, in order to address these serious member concerns relating to this rate case, due to an alleged conflict in his schedule.)

20.) That in further support of argument for said hearing and the inclusion of relevant "post record data," referenced herein, Sadler states that any foreclosure, "under the false circumstances," known to exist, by virtue of the documents contained within the public records (and as acknowledged by the Warranty Deed at Book 1429 Pages 249-253, in the Office of the Knox County Recorder. See **EXHIBIT C-1**).

Any foreclosure based upon actions (which have been "allegedly approved," according to Aqua's Representative, Thomas Bunosky) by virtue of rulings of the Illinois Commerce Commission, may also constitute an illegal taking of private property, by a public utility, without due process, and must be addressed as such.

The Commission, after being more FULLY ADVISED on the premises, cannot, in good faith, allow AQUA IL. to place into effect tariff sheets which represent an increase of 51.49% for ORPOA property owners -- when Aqua has come before this Commission with UNCLEAN HANDS, under the false circumstances known to have existed at the time of the filing of their request.

21.) That Aqua Illinois has caused to be published in the Oak Run Communicator, a threat of foreclosure, should water availability customers not remit their illegal extractions. (See **EXHIBIT D-1 and EXHIBIT D-2** attached hereto and by reference made a part hereof.)

This publication should give rise to class action claims (under the F.D.C.P.A., as well a R.I.C.O. action) as Sadler had advised the Board of Directors for Aqua America, and more particularly, Aqua America Treasurer and "Rate Counsel," Kathy Pape, of the dispute with respect to the legality of water availability fees and/or any increases, and she expressly acknowledged the questionable validity of collection of these fees.

As of this date, Aqua Illinois has still failed to provide the information promised to its customers, both publicly and in writing, as it relates to this rate increase request. See **EXHIBIT D-3 and EXHIBIT D-4.**

As The Office Of The Illinois Attorney General will be required to defend the dereliction of duty by Commission Staff, with respect to previous increases, and the increase now proposed by Staff, it appears that water availability customers will have had zero consumer fraud protection from our own Attorney General's Office (throughout this entire case, as well as the previous proceeding in 1997).

22.) That in light of the appearance of impropriety of Staff's recommendations, and the impropriety of actions by Counsel for both Aqua IL., and Oak Run, in the present case (as well as the previous Docket 97-0351), the Commission must immediately make available all relevant documentation available to support the belief by Aqua (and/or the Commission and Staff) that an increase in the monthly Availability Charge to Oak Run customers was, and is justified, (especially after Staff's necessary review of the public records available in the Office of the Knox County Recorder since 1997).

It is absurd and offensive for the Staff to have ever recommended that the Commission include any language in any Orders that has absolutely no basis in fact, or in law (see Page 5 of Staff's Brief on Exceptions at Section d. Conclusion) which states:
"As Staff suggests, Aqua's revised method of calculating bad dept (sic) expense is unorthodox. The Commission however, understands the position that Aqua finds itself in concerning Oak Run availability customers. Availability customers who do not pay their bills represent a cost to Aqua which only grows over time. FORGIVENESS OF SUCH IRRESPONSIBLE BEHAVIOR OF SUCH CUSTOMERS IS NOT APPROPRIATE UNDER THE CIRCUMSTANCES. (Emphasis added)

The Staff of the Illinois Commerce Commission should be given the opportunity to explain to the elderly property owners at Oak Run, exactly what the factual circumstances are, which lead the Staff to suggest that the Illinois Commerce Commission "interfere" with the express contractual provisions of Oak Run "Water Availability Fee" customers. There appears to be no legal authority for the Commission to do so. As such, a true and correct copy of Page 5-9 of Ms. Harden's testimony which was submitted by the Staff is attached hereto, for their convenience, as **EXHIBIT E**, and by reference made a part hereof.

EXHIBIT E, is a true and correct copy of a portion of the direct testimony of ICC Rate Analyst, Ms. Cheri Harden, (dated May 5, 2005) wherein she stated in pertinent part:

"Often, no other alternative exists that to allow a Company to collect Availability Charges..."

WRONG...THE "ALTERNATIVE" IS FOR THE ILLINOIS COMMERCE COMMISSION NOT TO FURTHER INTERFERE WITH THE PRIVATE CONTRACTS OF EACH OAK RUN AVAILABILITY CUSTOMER AND TO CORRECT THE ICC'S PREVIOUS ERRORS IN DOCKET NO. 97-0351 IMMEDIATELY.

Nothing less is acceptable, under the circumstances... If the Commission chooses not to do so, for any reason, this will leave the class of availability owners with only one alternative.

Discovery will be necessary to determine, in fact, how "often," if ever, the Illinois Commerce Commission resorts to their "internal policies" and/or "alternatives" against Illinois property owners who have never used, and do not plan to use a single drop of water. (Noting, the product provided has not been palatable for 35 years.)

23.) That Sadler specifically requests review of all relevant documents (including, but not limited to, copies of all sales contracts affecting rates, which were required to be on file in both 1997 and in 2004) which relate to increases that have been either received or requested by Aqua IL (formerly known as Consumers Illinois).

This request is made pursuant to the Freedom Of Information Act, 5 U.S. C. Section 552) As Staff is aware, Sadler's previous requests for information, related to rate increase cases involving the Oak Run Division, have been summarily denied by The Illinois Commerce Commission without just cause. See **EXHIBIT F** attached hereto and by reference made a part hereof.

In 20/20 "hindsight," the reasons behind the denial of Sadler's request for information are becoming crystal clear (unlike the water at Oak Run), and appear to relate to the "*internal policies*" and/or erroneous recommendations, and unlawful approval of increases in water availability fees, by the Illinois Commerce Commission, which had no basis in law, or in fact, and appear to violate the Constitutional Rights of an entire class of Oak Run Property Owners.

The tariff sheets filed by the I.C.C. (copies dated December 6, 2000 and marked by Sadler and underlined at * state "whose sale contract clearly sets forth the provisions for an availability charge) **SHOULD be declared null and void.** See **EXHIBIT G** attached hereto and by reference made a part hereof.

First time, shame on Aqua Illinois, Aqua America, and their Counsel.

Second time? Shame on all those who are involved in the abusive tactics used in this case against the elderly owners of property within the Oak Run Division.

IF LEGISLATIVE INTERVENTION IS REQUIRED TO PROTECT ILLINOIS CONSUMERS IN THIS MATTER, THE RECORD SHOULD BE CLEAR "WHY" IT IS NECESSARY.

24.) That in light of the Staff's refusal to consider relevant evidence, and the reluctance of the Hearing Examiner, or the Commission itself, to require its submission, prior to this date, Sadler requests the inclusion of the documents referenced in paragraph 4 and 12 above (and listed below specifically) as they expressly and unambiguously prohibit Aqua's requested action before the Commission in this case. These true and correct copies of public records, listed herein, were certified by the Knox County Recorder (see **EXHIBIT C-10**, attached hereto and by reference made a part hereof) more specifically recorded at:

C-1) Book 1429 - Pages 249 through 253 (and pages referenced therein)

C-2) Book 741 - Page 218- 219

C-3) Book 741 - Pages 220- 221

C-4) Book 747 - Page 116

C-5) Book 755 - Page 579

C-6) Book 762 - Page 351

C-7) Book 1011 - Page 261-262

C-8) Book 1043 - Page 331

C-9) Book 1051 - Page 167

25.) That Sadler reminds Staff, as well as the entire Commission, that "**Each commissioner and every hearing examiner of the Commission designated by it to hold any inquiry, investigation or hearing, shall have the power to administer oaths and affirmations, certify to all official acts, issue subpoenas, compel the attendance and testimony of witnesses, and the production of papers, books, accounts and documents.**"

The question remains. *Why has the Staff, and the Commissioners of the Illinois Commerce Commission refused to consider the express and unambiguous language of Aqua Illinois customers' contracts, in order to benefit a highly profitable public utility that has come before it with "unclean hands?"*

As reported, by MSNBC, Aqua America is quite proud of its "growth strategy" which includes capital improvements (even when not required, as it was not in the Oak Run Division) as part of a plan to grow and increase profitability by getting its "government regulated rates" increased. (See **EXHIBIT H** at **Page 2*** attached hereto and by reference made a part hereof.) Interestingly, as reported in **EXHIBIT H**, Aqua America actually "is able to produce operating savings in between its rate cases." Imagine what the elders in the Oak Run Division will think when they are able to read and understand this?

Why has no one stopped the pettifogging in this case? It appears that Sadler has an obligation to step forward and advocate the "clear" and unambiguous rights of the "water availability fee" customers. With that in mind, Staff is urged to review the "original intent" of the Developer of Oak Run, as it relates specifically to the water system. See **EXHIBIT I** attached hereto and by reference made a part hereof.

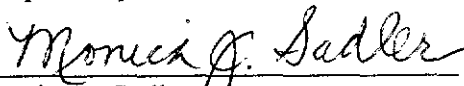
This "certified copy of The Report of the Administrative Officer" leaves no doubt that International Paper Company, doing business as a wholly owned subsidiary, known as American Central Corporation, received project "approval" based on the premise that they would install central water throughout each separate subdivision. There were nine separate subdivisions planned, with a total of approximately 5,000 lots. The "plan" was to serve up to 12,000 people. Simply put, the plan failed.

Therefore, it is ludicrous for I.C.C. Staff to suggest that Aqua Illinois, and in essence Aqua America, reap huge profits on the backs of those who also may have unwisely invested in "Oak Run." Be that as it may, there can be no doubt that one of America's largest companies, in 1972, went in under the radar, and made "changes" (a year after plat approvals, and after the "covenants of ownership" were filed for record and after lot sales began) in order to recover the development costs of a failed marketing scheme. (See **EXHIBIT J** attached hereto and by reference made a part hereof.)

Enough is enough. In conclusion, Sadler states that any further delay and/or the refusal to call a hearing, (with the required 7 days Notice under Section 200.80) to be held on the record, in order to allow Oral Argument by Sadler, and allow Aqua, Illinois Commission Staff, and Counsel for all parties to explain their concealment of this pertinent data post-record data affecting rates and charges, is unacceptable under the above described circumstances, and would constitute a denial of due process, under the United States Constitution. As held in O'Connell v. Chicago Park District, the passage of time can never right this wrong.

For the reasons stated herein, Sadler respectfully requests that the post record data attached hereto be included in this record, in order to allow the Commission, and/or any reviewing Court, to be more fully advised of the factual circumstances, that were known to exist by the parties, prior to the filing of any Order in this rate case. Sadler also requests that Oral Argument be allowed to make the record clear on why Aqua Illinois, Illinois Commerce Commission Staff and Counsel, as well as Counsel for the parties, have failed to admit these documents into this record, prior to November 10, 2005.

Respectfully submitted,

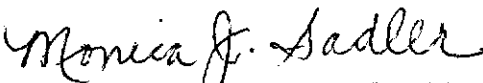

Monica J. Sadler

November 9, 2005

H.A.R.E.S.
(Halt Abuses of Retirees, Elders and Seniors)
(Homeowners Against Real Estate Swindles)
Monica J. Sadler
7310 - 37th Avenue
Moline, Illinois 61265

PROOF OF SERVICE

I certify that on the 9th day of November, 2005, I served a true and correct copy of these Motions to each of the parties on the service list below, via Federal Express.


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INDEX TO ATTACHED EXHIBITS

- EXHIBIT A STATE OF ILLINOIS, THIRD DISTRICT
APPELLATE COURT MODIFIED ORDER
DATED 12-22-00**
- EXHIBIT A-1 LAW REPORTER (SYNOPSIS OF ABOVE ORDER)**
- EXHIBIT B ORPOA BOOKLET EXCERPT - PAGE 12**
- EXHIBIT B-1 ORPOA MANAGER, MIKE DAVISON
DISCLAIMER RE; EXHIBIT B**
- EXHIBIT C EXHIBIT C WHICH WAS ATTACHED TO
SADLER'S PETITION TO INTERVENE (9-23-05)**
- EXHIBIT C-1 WARRANTY DEED FROM CENTRAL ILLINOIS
UTILITY CO. TO CONSUMERS ILLINOIS DATED
MAY 31, 1981**
- EXHIBIT C-2 BOOK 741 - PAGES 218-219**
- EXHIBIT C-3 BOOK 741 - PAGES 220-221**
- EXHIBIT C-4 BOOK 747 - PAGE 116**
- EXHIBIT C-5 BOOK 755 - PAGE 579**
- EXHIBIT C-6 BOOK 762 - PAGE 351**
- EXHIBIT C-7 BOOK 1011 - PAGE 261-262**
- EXHIBIT C-8 BOOK 1043 - PAGE 331**

EXHIBIT C-9	BOOK 1051 - PAGE 167
EXHIBIT C-10	CERTIFICATES OF KNOX COUNTY RECORDER FOR C-2 THROUGH C-9
EXHIBIT D-1	APRIL/MAY 2005 COMMUNICATOR NOTICE BY AQUA ILLINOIS
EXHIBIT D-2	JUNE/JULY COMMUNICATOR NOTICE BY CONSUMERS ILLINOIS WATER CO.
EXHIBIT D-3	NOTICE - AQUA ILLINOIS RE: JUNE 25, 2003 INFORMATIONAL MEETING
EXHIBIT D-4	NOTICE - BY AQUA ILLINOIS APRIL/MAY COMMUNICATOR
EXHIBIT E	DIRECT TESTIMONY - STAFF RATE ANALYST, CHERI L. HARDEN
EXHIBIT F	2003 F.O.I.A. REQUEST BY SADLER TO I.C.C .
EXHIBIT G	TARIFF SHEETS ISSUED NOVEMBER 9, 2000 BY TERRY J. RAKOCY, PRESIDENT, CONSUMERS ILLINOIS WATER CO.
EXHIBIT H	MSNBC ARTICLE RE: AQUA AMERICA "GROWTH STRATEGY"
EXHIBIT I	REPORT OF KNOX COUNTY ZONING OFFICER, ROBERT MASTERSON RE: OAK RUN
EXHIBIT J	1971 OAK RUN PROJECT APPROVAL CONDITIONS LETTER FROM KNOX COUNTY TO OAK RUN DEVELOPER RE: WATER SYSTEM